

**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL
MUMBAI**

13] M.A. No. 435/23 (Inj. Order)

WITH

M.A. No. 538/22 (Stay)

WITH

M.A. No. 1086/22 (Amendment)

WITH

Review No. 66/22 (Order dtd. 15/09/2022)

IN

APPEAL NO. AT006000000083897/22

Khambhati Modh Vanik Samaj, Mumbai

... Appellant

-VS-

Sakkar Bhimani & Ors.

... Respondents

ALONGWITH

14] M.A. No. 539/22 (Stay)

WITH

Review No. 67/22 (Order dtd. 15/09/2022)

IN

APPEAL NO. AT006000000083898/22

Khambhati Modh Vanik Samaj, Mumbai

... Appellant

-VS-

Vinod Kumar Gupta & Ors.

... Respondents

ALONGWITH

15] M.A. No. 540/22 (Stay)

WITH

M.A. No. 467/23 (R) (Addl. Evidence)

WITH

Review No. 68/22 (Order dtd. 15/09/2022)

IN

APPEAL NO. AT006000000083899/22

Khambhati Modh Vanik Samaj, Mumbai

... Appellant

-VS-

 Chetan Vitlani & Ors.

... Respondents

ALONGWITH
16] M.A. No. 541/22 (Stay)
WITH
Review No. 69/22 (Order dtd. 15/09/2022)
IN
APPEAL NO. AT006000000083900/22

Khambhati Modh Vanik Samaj, Mumbai

... Appellant

-VS-

Anita Zatakia & Ors.

... Respondent

Adv. Shashikant Chaudhari for Appellant.

Adv. Bhimani for Respondent no. 1. in sr. no. 13.

Adv. Ajay Nuniwal for Respondent no. 1 in sr. no. 14.

Adv. Charmie Gandhi for Respondent nos. 1 & 2 in sr. no. 15.

Adv. Vinodini Srinivasan for Respondent no. 1 in sr. no. 16.

Adv. Bishwajeet Mukharjee for New Developer in all matters except in sr. no. 15.

Adv. Jayant Mehta for proprietor of erstwhile developers in all the matters.

CORAM : SHRI SHRIRAM. R. JAGTAP, MEMBER (J), &

DR. K. SHIVAJI, MEMBER (A)

DATE : 23th OCTOBER, 2023

(THROUGH VIDEO CONFERENCE)

Matters are kept back.

Later on, 2 PM

Same appearance.

Matters are again kept back.

Later on, 3.30 PM

We have heard Adv. Bhimani, Adv. Ajay Nuniwal, Adv. Charmie Gandhi, Adv. Vinodini Srinivasan for respondents in M.A. nos. 66, 67, 68 and 69 of 2022. Learned counsel appearing for allottees submit that the trust and new developer be restrained from handing over possession of the flats to new allottees on the ground that they have already paid certain

Sgtap

amount with respect to the subject flat to erstwhile developer and trust and to that effect registered agreements for sales came to be executed between the parties.

Learned counsel Adv. Bishwajeet Mukharjee submits that the new developer has already delivered the possession of the flats to allottees. Considering the peculiar circumstances of the case, we are of the view that if the parties are directed to maintain status quo with regard to the possession of the subject flats no prejudice will cause to either of the parties. Accordingly, parties to the proceedings are directed to maintain the status quo with regard to the possession of the subject flats until the disposal of the review application.

Learned Adv. Vinodini Srinivasan has invited our attention to order passed by MahaRERA and submits that it has been specifically mentioned in the order that if the subject flats are not available then promoter has to give alternate flats to allottees of similar area and therefore it has become necessary to direct the respondent and trust to reserve at least 5 flats out of unsold flats for these allottees who have filed appeal against the impugned order. Per contra Adv. Biswajeet Mukharjee submits that he has no instructions to that effect.

Adv. Shashikant Chaudhari appearing for trust submits that he has stiff opposition for maintaining the status quo with regard to unsold flats because this order will affect trust, new customers and new developer. We do not find substance in the said submission as order of MahaRERA is clear on this point. Therefore, there is no impediment in directing the parties to maintain the status quo to the parties with regard to the 5 flats out of unsold flats so as to protect the interest of allottees who have filed appeal against the impugned order and it will not cause

Sgt

prejudice to either of the parties. Accordingly, trust Khambhati Modh Vanik Samaj Mumbai, new developer and Jayant Mehta are directed to maintain status quo i.e. not to hand over the possession of 5 unsold flats to any of the allottees and reserve 5 unsold flats of similar area for allottees who have filed appeal against impugned order till the disposal of Misc. Applications filed by trust for review of the order.

Stand over to 5th December, 2023 for further hearing on review application.



(DR. K. SHIVAJI)

ARP



(SHRIRAM. R. JAGTAP)